IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SEVENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO: 1105 of 1997

Between:

S. Jagadish,

S/o S.Kishan Rao, aged about 38 years,

OCC: Grade-III Assistant,

R/o 14-2-129, Gosha Mahal,

Chandanwadi,

Hyderabad – 12.

... PETITIONER

AND

The Andhra Pradesh State Civil Supplies Corporation Ltd
rep. by its Managing Director, 6-3-655/1/A, Civil Supplies Bhavan, Somajiguda.

Hyderabad – 500 482.

...RESPONDENT

Petition under Article 226 of the constitution of India praying that in the

circumstances stated in the Affidavit filed herein the High Court will be pleased to call for the records from the respondent and issue an appropriate Writ, Order or Direction, particularly one in the nature of Writ of Mandamus, declaring that the action of the respondent in denying the monetary benefits to the petitioner with effect from 22-6-1998, as illegal, unjust, contrary to law, arbitrary, discriminatory, in violation of principles of natural justice and violative of Articles 14, 16 and 21 of the Constitution of India; and grant all consequential benefits to the petitioner; and pass such other order or orders as deemed fit and proper under the circumstances of the case.

Counsel for the Petitioner: MR.A.K.JAYAPRAKASH RAO

Counsel for the Respondent: MR.M.B.THIMMA REDDY

The Court made the following Order:

ORDER:

This Writ Petition is filed by the petitioner praying for issue of Writ of Mandamus declaring that the action of the respondents in denying the Monetary benefits to the petitioner with effect from 22-06-1988 as illegal, unjust, arbitrary, discriminatory and in violation of Articles 14, 16 and 21 of the Constitution of India.

2. According to the petitioner, he was appointed as a Canteen Supervisor on 04-11-1981 in Annapurna Peoples' Canteen, which was being run by the respondent-corporation. It is stated that by the date of joining the service, the petitioner passed 'Intermediate'. According to the petitioner, Government of Andhra Pradesh issued G.O.Ms.No.368 Food and Agriculture (C.S.III) Department, dated 08-10-1982 providing regularization of
the services of daily-wage employees who were working till the end of June, 1982 and those employees would be entitled for monthly wages on regular scales of pay. When similar benefit was not extended to the petitioner, he filed W.P.No.5029 of 1989 questioning the action of the respondent in not regularizing his services in the category of Canteen Supervisors with effect from 08-10-1982. The said Writ Petition was disposed of on
24-01-1995 directing the petitioner to file a detailed representation to the respondent with a request to regularize his services and the respondent was directed to pass appropriate orders on the

petitioner's application in accordance with the rules. Pursuant to the said direction, the petitioner made an application; the said application was not disposed of. Therefore the petitioner filed C.C.No.889 of 1995 and thereafter the respondent passed an order on 15-09-1995 regularizing the services of the petitioner with effect from 22-06-1988 in the category of Grade-III Assistant in the pay scale of 9-10-30-1240-35-1625. The said order was served on the petitioner on 16-09-1995. Though the petitioner's services were regularized with effect from 22-06-1988, he was allowed monetary benefit only from 16-09-1995. Therefore, the petitioner has come up with the present Writ Petition.

3. The grievance of the petitioner is that though the services of so many other similarly placed employees who are even juniors to him, were regularized and were even given their monetary benefit with effect from 22-06-1988, but, however the petitioner was discriminated and granted the monetary benefit only from 16-09-1995; the said action of the respondent is clearly illegal, discriminatory and liable to be set aside. Learned counsel for the petitioner also relied upon the orders of the Government passed in G.O.Ms.No.368 dated 08-10-1982 and also similar orders passed with reference to other employees and sought for the relief of monetary benefit with effect from 22-06-1988 on par with other similarly placed employees.

4. Though no counter has been filed on behalf of the respondent, however, at the time of hearing, the learned standing counsel placed a copy of the order dated 22-06-1988 stating that as per the said order, in respect of the candidates who were not having 'Graduation', the regularization was made subject to certain conditions stipulated therein; such as:

> " 1 . They shall acquire the minimum educational qualification i.e. graduation required to hold the present post before December, 1989 as directed by the High Court of Andhra Pradesh in its judgment dated 10-03-1988 in Writ Petition No.8189 of 1986 failing which the next periodical increment due on or

after December, 1989 will be withheld, besides entailing extension of period of probation.

2. They will not be eligible for future promotion to the next higher post till they acquire the requisite educational qualifications prescribed for such higher post."

5. Therefore, the learned standing counsel contended that unless one obtains graduation on or before December 1989, he would not be entitled for the periodical increments, which are due to an employee. Further he will not be entitled for any promotion till he obtains the requisite educational qualification. Therefore, the petitioner who did not obtain graduation in the year 1989 may not be entitled for further benefits as stipulated in the said order, but, however conceded that to the extent of promotion is concerned with the basic monetary benefits, the petitioner is also entitled for the same along with similarly placed persons; therefore sought for appropriate orders to be passed on merits.

6. Admittedly, the respondent passed orders promoting the petitioner with effect from 22-06-1988, but on the ground that the petitioner did not obtain graduation, the monetary benefit was not granted from that date; but was extended only from 15-09-1995, by which date the petitioner obtained graduation. The grievance of the petitioner is that when similarly placed persons were extended the monetary benefit even though they did not obtain the educational qualification of graduation, the denial of similar benefit to the petitioner is illegal and discriminatory. In view of the above, it would be appropriate to direct the respondent-corporation to extend the benefit that is stipulated in the orders passed by the corporation dated 22-06-1998 under which about 13 employees were promoted subject to the conditions referred to above. In the

circumstances, the Writ Petition is disposed of directing the respondent to extend the monetary benefit to the petitioner also from 22-06-1988 subject to the conditions referred to above which are part of the proceedings of the respondent corporation dated 22-06-1988. Subject to the above restrictions, the petitioner is entitled for the monetary benefits on par with similarly placed persons.

7. The Writ Petition is accordingly disposed of with the above directions and the respondent-corporation is also directed to pay the arrears payable by virtue of the extension of monetary benefit to the petitioner from 22-06-1988, within a period of 8 weeks from the date of receipt of a copy of this order.

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(S. ANANDA REDDY, J)

July 27, 2004

MRR/KVH

Copy to:

1. Managing Director, The Andhra Pradesh State Civil Supplies

Corporation Ltd. 6-3-655/1/A, Civil Supplies Bhavan, Somajiguda

Hyderabad – 500 482.

2. Two C.D. Copies.